

THE GOVERNMENT OF ROMANIA

DECISION

on the minimum safety and health requirements regarding the exposure of workers to the risks arising from noise

On the basis of Article 108 in the Romanian Constitution, republished,

The Government of Romania has adopted this decision:

CHAPTER 1 General provisions SECTION 1 *Aim and scope*

Art. 1. - This decision lays down minimum requirements for the protection of workers from risks to their health and safety arising or likely to arise from exposure to noise and in particular the risk for hearing.

Art. 2. - The provisions of this decision shall apply to activities which workers are or are likely to be exposed to risks from noise as a result of their work.

Art. 3. - Provisions of national legislation transposing the Directive 89/391/EEC shall apply fully to activities referred to in Article 2, without prejudice to more restrictive and/or specific provisions contained in this decision.

Art. 4. - For the purpose of this decision, the physical parameters used as risk predictors are defined as follows:

a) peak sound pressure (p_{peak}) – maximum value of the ‘C’-frequency weighted instantaneous noise pressure;

b) daily noise exposure level ($L_{EX, 8h}$) [dB(A) re. $20\mu\text{PA}$] – time-weighted average of the noise exposure levels for a nominal eight-hour working day as defined by standard SR ISO 1999:1996, point 3.6. This notion covers all noises present at the work place, including impulsive noise;

c) weekly noise exposure level ($L_{EX, 8h}$) – time-weighted average of the daily exposure levels for a nominal week of five eight-hour working days as defined by the standard SR ISO 1999:1996 point 3.6 (note 2).

SECTION 2

Exposure limit values and exposure action values from which starts the employer action on workers' safety and health

Art. 5. - For the purpose of this decision the exposure limit values and exposure action values from which starts the employer action on workers' safety and the protection of their health in respect of daily noise exposure and peak sound pressure are fixed as follows:

- a) exposure limit values: $L_{EX,8h} = 87\text{dB(A)}$ and $p_{peak} = 200 \text{ Pa}^1$;
- b) upper exposure action values, from which starts the action: $L_{EX,8h} = 85 \text{ dB(A)}$ and $p_{peak} = 140 \text{ Pa}^2$ respectively;
- c) lower exposure action values, from which starts the action: $L_{EX,8h} = 80 \text{ dB(A)}$ and $p_{peak} = 112 \text{ Pa}^3$ respectively.

Art. 6. - (1) In the case of exposure limit values, the determination of the worker's effective exposure shall take account of the attenuation provided by the individual hearing protectors worn by the worker.

(2) The exposure action values, from which starts the employer action on workers' safety and protection of their health shall not take account of the effect of the use of protectors referred to in paragraph 1.

Art. 7. - In duly justified circumstances, for the activities where daily noise exposure varies markedly from one working day to the next, for the purpose of applying the exposure limit values and the exposure action values from which starts the action of the employer concerning the workers' safety and the protection of their health, shall use the weekly noise exposure level in place of the daily noise exposure level to assess the levels of noise to which workers are exposed, on condition that:

- a) the weekly noise exposure level as shown by adequate monitoring does not exceed the exposure limit value of 87dB(A); and
- b) appropriate measures are taken in order to reduce the risk associated with these to a minimum.

CHAPTER 2

Obligations of employers

Section 1

Determination and assessment of noise risks

Art. 8. - In carrying out the obligation set out in the national legislation transposing the Directive 89/391/EEC, the employer shall assess and, if necessary, measure the levels of noise to which workers are exposed.

Art. 9. - The methods and apparatus used shall be adapted to the existing conditions particularly taking into account of the characteristics of the noise to be measured, the length of exposure, ambient factors and the characteristics of the measuring apparatus.

Art. 10. - The used methods and apparatus shall make it possible to determine the parameters defined in Article 4 and to establish whether, in a given case, the values laid down in Articles 5 to 7 have been exceeded.

Art. 11. - The methods used may include sampling, which shall be representative of the personal exposure of a worker.

Art. 12. - The assessment and measurement referred to in Article 8 shall be planned and carried out by competent prevention and protection services at suitable intervals, taking particular account of the provisions of the national legislation transposing the provisions of Directive 89/391/EEC related to these services.

¹ 140 dB(C) in relation to 20 μPa .

² 137 dB(C) in relation to 20 μPa .

³ 135 dB(C) in relation to 20 μPa .

Art. 13. - The data obtained from the assessment and/or measurement of the level of exposure to noise shall be kept in a suitable form so as to permit consultation at a later stage.

Art. 14. - When carrying out the risk assessment and determination, the assessment of the measurement results shall take into account the measurement inaccuracies determined in accordance with metrological practice.

Art. 15. - In accordance with the national legislation transposing the Directive 89/391/EEC, the employer shall give particular attention, when carrying out the risk assessment, to the following issues:

- a) the level, type and duration of exposure, including exposure to impulsive noise;
- b) the exposure limit values and exposure action values, from which starts the action, laid down in Articles 5 to 7;
- c) the effects on the health and safety of workers belonging to particularly sensitive risk groups;
- d) as far as technically achievable, the effects on workers' health and safety resulting from interactions between noise and work-environment ototoxic substances, as well as noise and vibrations;
- e) the indirect effects on workers' health and safety resulting from interactions between noise and warning signals or other sounds that need to be observed in order to reduce the risk of accidents;
- f) information on noise emission provided by manufacturers of work equipment in accordance with legal provisions;
- g) the existence of alternative work equipment designed to reduce the noise emission;
- h) the extension of exposure to noise beyond normal working hours under the employer's responsibility;
- i) appropriate information obtained following health surveillance, including published information, as far as possible;
- j) the availability of hearing protection with adequate attenuation characteristics.

Art. 16. - (1) The employer shall detain an assessment of risks and shall identify which measures concerning workers' health and safety must be taken, in accordance with the national legislation transposing the Directive 89/391/EEC.

(2) The risk assessment shall be recorded on a suitable medium as to ensure the preservability of the data.

(3) The risk assessment shall be kept up to date on a regular basis and in particular if there have been significant changes which could lead to workers' exposure to noise of, or when the results of health surveillance make it necessary.

SECTION 2

Avoiding or reducing exposure to noise

Art. 17. - Taking account of technical progress and of the existence of measures to control the risk at source, the risks arising from exposure to noise shall be eliminated at their source or reduced to a minimum.

Art. 18. - The reduction of the risks arising from exposure to noise shall be based on the general principles of prevention set out in the national legislation transposing the Directive 89/391/EEC, taking particular account of the following:

- a) other working methods which diminish exposure to noise;

b) the choice of appropriate work equipment, taking account of the nature of the work to be done, emitting the least possible noise, including the possibility of making available to workers work equipments which comply to legal requirements with the aim or effect of limiting exposure to noise;

c) the design and layout of workplaces and workstations;

d) adequate information and training of the workers relative to the correct use of work equipments in order to reduce their exposure to noise to a minimum;

e) technical means for the reduction of airborne noise, for example shields, enclosures, sound-absorbent coverings, as well as the reduction of structure-borne noise by damping or isolation;

f) appropriate maintenance programmes for work equipments, the workplace and workplace systems;

g) the organisation of work in such a way to reduce noise by limiting the duration and intensity of the exposure, and by establishing the sufficient rest periods during work schedule.

Art. 19. - On the basis of the risk assessment referred to in Articles 8 -16, where the upper exposure action values from which starts the action are exceeded, the employer shall establish and implement a programme of technical and/or organisational measures intended to reduce the exposure to noise, taking into account in particular the measures referred to in Articles 17 and 18.

Art. 20. - (1) On the basis of the risk assessment referred to in Articles 8 -16, workplaces where the workers are likely to be exposed to noise exceeding the upper exposure action values from which starts the action of the employer concerning the workers' safety and the protection of their health shall be marked with appropriate signs.

(2) Where technically possible and the risk of exposure justifies this, the workplaces referred to in paragraph (1) shall be delimited and the access to them shall be restricted.

Art. 21. - Where, due to the nature of the activity, workers benefit from the use of the rest rooms under the responsibility of the employer, noise in these rooms shall be reduced to a level compatible with the purpose of facilities and the conditions of their use.

Art. 22. - According to the provisions of the national legislation transposing the Directive 89/391/EEC, the employer shall adapt the measures referred to in this Section to the needs of workers belonging to particularly sensitive risk groups.

SECTION 3

Personal protection against risks arising from noise exposure

Art. 23. - Where risks arising from noise exposure cannot be prevented by other means, appropriate, properly fitting individual hearing protectors shall be made available to workers which shall be used by them in accordance with the provisions of the national legislation transposing the Directive 89/656/EEC and the Directive 89/391/EEC, under the following conditions:

a) where noise exposure exceeds the lower exposure values from which starts the action, the employer shall make individual hearing protectors available to workers;

b) where noise exposure matches or exceeds the upper exposure action values from which starts the action, workers shall use the individual hearing protectors;

c) the individual hearing protectors shall be selected so as to eliminate or reduce to a minimum the risk to hearing.

Art. 24. - The employer shall take measures to ensure the use of individual hearing protectors by his workers.

Art. 25. - The employer shall be responsible for checking the effectiveness of the measures taken in compliance with the Articles 23 and 24.

SECTION 4

Limitation of noise exposure

Art. 26. - Under no circumstances shall the exposure of the worker to noise as determined in accordance with Article 6 exceed the exposure limit values.

Art. 27. - If, despite the measures taken to implement this decision, exposures above the exposure limit values are detected, the employer shall:

- a) take immediate measures to reduce the exposure below the exposure limit values;
- b) identify the reasons why overexposure has occurred;
- c) adapt the prevention and protection measures in order to avoid any recurrence.

SECTION 5

Worker information and training

Art. 28. - Without prejudice to the provisions of the national legislation transposing the Directive 89/391/EEC, the employer shall ensure that workers who are exposed to noise at work at or above the lower exposure action values from which starts the action, and/or their representatives, receive information and training relating to risks arising from exposure to noise concerning, in particular:

- a) the nature of such risks;
- b) the measures taken to implement this decision in order to eliminate or reduce to a minimum the risks arising from noise, including the circumstances in which the measures apply;
- c) the exposure limit values and the exposure action values from which starts the action of the employer concerning the workers' safety and the protection of their health, laid down in Articles 5 – 7;
- d) the results of the assessment and measurement of the noise carried out in accordance with Articles 8 – 16 together with an explanation of their significance and potential risks;
- e) the correct use of hearing protectors;
- f) why and how to detect and report signs of hearing damage;
- g) the circumstances in which workers are entitled to health surveillance and the purpose of this surveillance, in accordance with Articles 30 - 33;
- h) safe working practices in order to reduce to a minimum the exposure to noise.

SECTION 6

Consultation and participation of worker

Art. 29. - Consultation and participation of workers and/or of their representatives shall take place in accordance with the national legislation transposing the Directive 89/391/EEC on the matters covered by this decision, and in particular shall refer to the following:

- a) - the assessment of risks and identification of measures to be taken, referred to in Articles 8 - 18;
- b) the actions aimed at eliminating or reducing risks arising from exposure to noise, referred to in Articles 17 - 22;
- c) the choice of individual hearing protectors referred to in Article 23 letter c).

CHAPTER 3

Health surveillance

Art. 30. - (1) Where the results of the assessment and measurement provided for in Article 8 indicate a risk to workers health, the Ministry of Health shall adopt regulations in order to ensure the appropriate surveillance of their health, according to the national legislation transposing the Directive 89/391/EEC.

(2) The regulations referred to in paragraph (1), including the requirements specified for health records and their availability, shall be elaborated in accordance with national legislation and/or practices.

Art. 31. - (1) Workers whose exposure exceeds the upper exposure action values from which starts the action of the employer concerning the workers' safety and the protection of their health shall have the right to have a medical examination at regular intervals, including the check of their hearing, performed by a specialist doctor or occupational medicine physician with primary degree, in accordance with national legislation.

(2) If the assessment and measurement provided for in Article 8 indicate a risk to health of workers whose exposure exceeds the lower exposure action values from which starts the action, workers are entitled to have preventive audiometric testing.

(3) The objectives of the checks referred to in paragraphs (1) and (2) are to provide the early diagnosis of any loss of hearing due to noise, and to preserve the hearing function.

Art. 32. - (1) For each worker who undergoes health surveillance in accordance with Articles 30 an 31, an individual health records shall be made and kept up to date.

(2) Health records shall contain a summary of the results of the health surveillance carried out.

(3) Health records shall be kept in a suitable form so as to permit any consultation at a later date, taking into account any confidentiality.

(4) Copies of the updated records shall be supplied to the public health directorates on request.

(5) Each worker shall, at his or her request, have access to the individual health record relating to him or her personally.

Art. 33. - (1) Where, as a result of surveillance of the hearing function, a worker is found to have identifiable hearing damage, the occupational medicine physician shall assess whether the damage is likely to be the result of exposure to noise at work.

(2) In the case referred to in paragraph (1) the occupational medicine physician shall inform the worker of the result which relates to him or her personally.

(3) In the case referred to in paragraph (1) the employer shall:

a) review the risk assessment carried out pursuant to Articles 8 – 18;

b) review the measures provided for to eliminate or reduce risks pursuant to Articles 17 – 25;

c) take into account the advice of the occupational medicine physician or the public health directorates in implementing any measures required to eliminate or reduce risks in accordance with Articles 17 - 25, including the possibility of assigning the worker to alternative work where there is no risk of further exposure;

d) arrange systematic health surveillance and provide for a review of the health status of any other worker who has been similarly exposed.

CHAPTER 4

Final provisions

Art. 34. - (1) In exceptional situations where, because of the nature of the work, the full and proper use of individual hearing protectors would be likely to cause greater risk to health or safety than not using such protectors, may be granted derogations from the provisions of Articles 23 letter a) and b), 26 and 27.

(2) The derogations referred to in paragraph 1 shall be granted following consultation with the Ministry of Labour, Social Solidarity and Family, the Ministry of Health and social partners.

(3) Such derogations must be accompanied by conditions which guarantee, taking into account the special circumstances, that the resulting risks are reduced to a minimum and that the workers concerned are subject to increased health surveillance.

(4) Such derogations shall be reviewed every four years and withdrawn as soon as the justifying circumstances no longer exist.

Art. 35. - (1) In order to implement this decision in the music and entertainment sectors, the Ministry of Labour, Social Solidarity and Family and the Ministry of Health shall draw up, in consultation with the social partners and in accordance with the national law and practices, a code of conduct providing for practical guidelines to help workers and employers in these sectors to meet their legal obligations as laid down in this decision.

(2) The drawing up of a code of conduct referred to in paragraph (1) will be carried out before 15 February 2008.

(3) Until 15 February 2008 the levels of protection already achieved with regard to workers in the music and entertainment sectors, shall be maintained.

Art. 36. - Where the exposure limit values are exceeded at workplaces situated on board of seagoing vessels, the provisions referred to in Articles 26 and 27 may be applied starting from 15 February 2011.

Art. 37. - The present decision comes into force on 1st September 2006.

The present decision transposes the Directive 2003/10/EC on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise), published in the Official Journal of the European Communities (OJEC) no. L 42/2003.